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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,225	10/01/2004	Rolf-Dieter Pavlik	2002P03966WOUS	6264

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER	
KIM, EDWARD J	
ART UNIT	PAPER NUMBER
2455	
MAIL DATE	DELIVERY MODE
02/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/510,225	PAVLIK ET AL.	
	Examiner	Art Unit	
	EDWARD J. KIM	2455	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *30-39*.
   Claim(s) withdrawn from consideration: *none*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/saleh najjar/
Supervisory Patent Examiner, Art Unit 2455

Continuation of 11. does NOT place the application in condition for allowance because:
The Applicant argues,

"The independent claim 30 sets out "a web server software system installed ont hew eb web server computer". The point of the argument is that the layering of the web server software relative to the industrial automation control module is different in the present invention versus Kuchlin."
and provides support for the argument (refer to pg.2-3 of the reply filed on 01/28/2009).

The Examiner respectfully disagrees.

Kuchlin discloses that the HIGHROBOT "is an open workstation based robot control which has full access to the Internet and its Web technologies…the usage of Java-applets offers new applications in telerobotics…" (Kuchlin, Abstract).
Furthermore, Kuchlin discloses that the purpose of the paper is to demonstrate "the network capabilities of control systems base don standard workstation components and to present a concrete object-oriented software solution interfacing the control to the Web…Together with a companion paper [14] this work provides a uniform object-oriented approach to distributed object-oriented real-time systems. While [14] covers object-oriented client-server communication over LAN and filed-bus, this paper covers the Internet using Web technology…show our implementation of a manipulator system controlled via Internet using HTML-pages and Java in section 4. It is based on an application independent general server which enables Web-based distributed object computing." (Kuchlin, Introduction).
Kuchlin further discloses, "a remote computer system takes the part of the master system, it triggers the arm movements on the slave control system. Speaking in software terms, the remote system is a client program that interacts with a server application on the HIGHROBOT control. In our prototype we have implemented an application with a thin client supporting a graphical user interface in Java and a general server in c++ [21] attached to HIGHROBOT". (Kuchlin, section 4 "Telerobotics with Java and a General Object Server").

The Examiner disagrees with the Applicant's interpretation of the prior art at hand (Kuchlin). In pg.3 the Applicant discloses a figurative interpretation, wherein the "Web server software" is on top of the "HighRobot Control software". As disclosed above, HIGHROBOT is an open workstation based robot control with full access to the Internet and Web technologies, wherein a general server is attached to, utilizing standard interfaces such as APIs and CGIs.
The Applicant discloses in the disclosure that "the expansion module 37, a software module, is coupled via an interface (not shown in the figure) to the connection 38 and therefore to the hardware components of the automation system for controlling the industrial process 39" (paragraph [0021]), wherein "the web server kernel 54 provides standardized interfaces for coupling the software components and forms the basis for various software expansion modules" (paragraph [0022]). Furthermore, the Applicant discloses that "the expansion modules are not coupled by means of proprietary interfaces or interfaces which have been programmed out, but are connected by means of standardized interfaces for example API (Application Programming Interface) or CGI (Common Gateway Interface). API us a formally defined interface via which application programs can use system services…CGI describes a standard interface between a web server and programs." (paragraph [0024]).

The Examiner has looked into the specification as well as the claim language in selecting the prior art at hand, and the Examiner retains the position that the claimed invention still reads on the prior art disclosed by Kuchlin.

Regarding the explanation of the differences of Kuchlin and the claimed invention is pg.4, the Examiner disagrees with the Applicant ("If Kuchlin's industrial control software fails, the web server installed thereon must fail, and client communication is lost"). As explained above, Kuchlin discloses a general all-purpose server attached to the HIGHROBOT system. Even if the HIGHROBOT modules fail, the general server attached will not fail, since the general server software modules are attached to the HIGHROBOT modules, not operating on top of them. Both will fail when the whole HIGHROBOT system fails, which includes the hardware both modules are running on.